

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

WEST PENN ALLEGHENY HEALTH
SYSTEM, INC.,

Plaintiff,

v.

UPMC,

Defendant.

09cv0480

ELECTRONICALLY FILED

Scheduling Order re: Pending Motion for Leave to File Second Amended Complaint
(doc. no. 124)

As more fully discussed at the Status Conference of this date (November 28, 2011), this Court hereby ORDERS that the parties may conduct discovery relating only to the pending Motion for Leave to File a Second Amended Complaint (SAC) (doc. no. 124). Discovery shall commence on February 1, 2012, and shall conclude by March 31, 2012. The discovery shall focus on factors relating to the granting or denying of the Motion for Leave to File SAC, including undue (prejudicial) delay, bad faith, or dilatory motive, as well as the issue of futility. *Arthur v. Maersk, Inc.* 434, F3d 196, 204 (3d Cir. 2006); *see also, Graham v. Progressive Direct Insurance Co.*, 271 F.R.D. 112, 122 (W.D. Pa. 2010) (“In this Circuit, prejudice to the non-moving party is the touchstone for denial of leave to amend.”). Discovery shall not include trial counsel who have entered appearances in this case, nor inside corporate counsel.

The parties shall meet and confer on the scope of discovery on this issue, shall attempt resolution of the scope of discovery, and shall file a notice by January 20, 2012 at noon, if the parties are able to reach agreement on the scope of discovery. If, however, the parties are unable to agree on scope of discovery, any motion to compel shall be filed by January 20, 2012 at noon, with response(s) by January 27, 2012 at noon, and the Court will rule on said motion(s) by

February 1, 2012.

Upon the conclusion of discovery on issues relating to the Motion for Leave to File a Second Amended Complaint, the Court hereby Orders the filing of cross-briefs by April 12, 2012 at noon, and response(s) thereto by April 19, 2012 at noon. The Court will hear oral argument on the Motion for Leave to File Second Amended Complaint on April 24, 2012 at 9:00 a.m.

SO ORDERED this 28th day of November, 2011.

s/Arthur J. Schwab
Arthur J. Schwab
United States District Judge

cc: All Registered ECF Counsel and Parties